LEWIS BRISBOIS BISGAARD & SMITH LLP DANA ALDEN FOX, SB# 119761 E-Mail: Dana.Fox@lewisbrisbois.com EDWARD EARL WARD JR. SB#249006 E-Mail: Edward.Ward@lewisbrisbois.com TERA A. LUTZ, SB# 305304 E-Mail: Tera.Lutz@lewisbrisbois.com 633 West 5th Street, Suite 4000 Los Angeles, California 90071 Telephone: 213.250.1800 Facsimile: 213.250.7900 6 Attorneys for Defendant, SANG LEE 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION 10 11 CASE NO. 2:16-cv-02129-SJO (RAOx) CORY SPENCER, an individual; 12 DIANA MILENA REED, an individual; and COASTAL 13 PROTECTION RANGERS, INC., a Assigned District Judge Hon. S. James California non-profit public benefit Otero, Courtroom 10C 14 corporation, Discovery Assigned to Magistrate Judge 15 Hon. Rozella A. Oliver Plaintiffs, 16 DEFENDANT SANG LEE'S VS. OPPOSITION TO PLAINTIFFS' LUNADA BAY BOYS; THE INDIVIDUAL MEMBERS OF THE **17** MOTION FOR SANCTIONS AGAINST DEFENDANT SANG 18 LEE: MEMORANDUM OF POINTS LUNADA BAY BOYS, including but AND AUTHORITIES not limited to SANG LEE, BRANT 19 BLAKEMAN, ALAN JOHNSTON AKA JALIAN JOHNSTON, MICHAEL RAE PAPAYANS, [Filed concurrently with Declaration of Tera A. Lutz and Declaration of Giselle 20 ANGELO FERRARA. FRANK Morales] 21 FERRARA, CHARLIE FERRARA; and N.F.; CITY OF PALOS VERDES ESTATES; CHIEF OF Date: October 12, 2017 Time: 10:00 a.m. 22 POLICE JEFF KEPLEY, in his Crtrm: F 23 representative capacity; and DOES Complaint filed: March 29, 2016 1-10,Dec. 12, 2017 24 Trial Date: Defendants. 25 26 TO THE HONORABLE COURT AND ALL PARTIES OF RECORD: 27 28

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

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Plaintiffs Cory Spencer ("Spencer"), Diana Milena Reed ("Reed"), and the Coastal Protection Rangers ("CPR") (collectively, "Plaintiffs"), allege they have been refused the right to recreate at Lunada Bay as a result of actions by Sang Lee ("Lee" or "Defendant"). Specifically, Spencer alleges he was harmed during two visits to Lunada Bay- in January and February of 2016. (Docket No. 1; Plaintiffs' Complaint ¶ 21). Reed alleges she was also harmed during visits she took to Lunada Bay on January 29, 2016; February 5, 2016; and February 13, 2016. (Docket No. 1; 10 Plaintiffs' Complaint ¶¶ 22, 23, 24). It is unclear how CPR, as an entity, has been refused the right to recreate at Lunada Bay.

In this motion, Plaintiffs contend they are entitled to sanctions because Lee is unable to produce certain text messages. If electronically stored information is lost, because a party failed to take reasonable steps to preserve it, the Court may order sanctions where a finding of prejudice is made. (Fed. R. Civ. P. 37(e)(1)). However, severe sanctions, like those requested in plaintiff's motion, are reserved where a party acted with an intent to deprive. (Fed. R. Civ. P. 37(e)(2)). Lee did not act with intent because evidence suggests the text messages were not deleted by him, but rather were overwritten. Plaintiffs have not been prejudiced by this loss because none of the text messages occurred during the time period of plaintiffs' alleged incidents and did not relate to this lawsuit. Further, information regarding content of these text messages could have been obtained from other co-Defendants in this case.

While Plaintiffs' Motion addresses discovery issues relating to defendants Charlie Ferrara, Frank Ferrara, and Sang Lee, this opposition only relates to claims alleged by Plaintiffs against Defendant Lee.

a. Procedural History

On March 29, 2016, Plaintiffs filed a lawsuit against Lee. (Docket No. 1).

Defendant Lee was served with the Complaint on June 21, 2016, and filed his answer on August 1, 2016. (Docket Nos. 82, 94).

On August 18, 2017, without even being requested by Plaintiffs to do so, Lee submitted his phone to a forensic analyst for imaging in order to preserve evidence on his cell phone. (Declaration of Tera A. Lutz ("Lutz Decl.") ¶ 2). This was completed despite the fact plaintiffs never served Lee or his counsel with a preservation demand letter. Id. On December 12, 2016, Defendant Lee produced a redacted copy of an extraction report generated as a result of imaging Defendant Lee's cell phone. (Lutz Decl. ¶ 3). The production included the name, date, and time of text messages that occurred between Lee and his co-defendants. (Exhibit A).

On July 19, 2017, counsel for Plaintiffs and counsel for Lee appeared before Magistrate Judge Oliver regarding the redacted extraction report. [Docket No. 273]. Ultimately, Lee was ordered to produce the extraction report in its entirety and 14 Defendant Lee complied. [Docket No. 290].

The extraction report includes an extensive amount of information obtained from Sang Lee's cell phone, including but not limited to, text messages, images, installed applications, location history, user dictionary, and web bookmarks. (Lutz 18 | Decl. ¶ 4; Exhibit "B"). While the date, time, and receipt information for text messages on Sang Lee's phone could be obtained, the body of a majority of Lee's text messages could not be recovered. (Lutz Decl. ¶ 5). A majority of these unrecoverable text messages were between Lee and individuals unrelated to this suit. Id. For example, of the 924 text messages identified in the extraction report, only 17 were sent or received from co-defendants in this matter and the other 846 text messages were sent or received from individuals not related to this suit, and were unrecoverable. (Exhibit B). There was no specific time period where text messages were recoverable and where text messages were unrecoverable. (Declaration of Giselle Morales ("Morales Decl.") ¶ 19). Defendant Lee testified at

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his deposition that he did not delete any text messages relating to this lawsuit. (Lee Depo. p. 22:24-25; p. 23:1).

b. Efforts to Obtain the Body of Unrecoverable Text Messages

On September 5, 2017, Magistrate Judge Rozella A. Oliver ordered Lee to seek out further methods of recovery to determine whether the body of text messages between Lee and his co-defendants could be obtained. (Lutz Decl. ¶ 7). In an effort to obtain the body of these unrecoverable text messages, a forensic analyst completed a physical extraction of Sang Lee's cell phone. (Morales Decl. ¶ 12). A physical extraction provides a bit-by-bit copy of the mobile device's data. (Morales 10 | Decl. ¶ 7). This is the most comprehensive extraction allowing for the retrieval of live data, and hidden or deleted files. Id. This is a time consuming method and therefore costly and burdensome. Id. The body of additional text messages were not 13 || recoverable. (Morales Decl. ¶ 12). In further efforts to recover these text messages, the forensic analyst performed several additional tests of the data including a Cellebrite analysis, IEF Axiom analysis, manual review of the SMS database, and BlackLight. (Morales Decl. ¶ 13-16). While the body of several text messages were found, none related to the text messages requested by plaintiff. (Morales Decl. ¶ 16).

II. LEGAL STANDARD

a. Application of Federal Rule of Civil Procedure Rule 37(e)

Rule 37(e) authorizes and specifies measures a court may employ if information that should have been preserved is lost, but only if the lost information should have been preserved in the anticipation or conduct of litigation and the party failed to take reasonable steps to preserve it. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes. No action is warranted when information is lost before a duty to preserve arises. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes. The duty to preserve attaches only when a party should have known the evidence may be relevant to future litigation. (In re Napster, Inc. Copyright Litig., 462 F. Supp. 2d

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Nor is action warranted if reasonable steps were taken to preserve the information. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes. Due to the ever-increasing volume of electronically stored information and the multitude of devices that generate such information, perfection in preserving all relevant electronically stored information is often impossible. *Id.* Because the rule calls only for reasonable steps to preserve, it is inapplicable when the loss of information occurs despite the party's reasonable steps to preserve. Id.

The court must also be sensitive to a party's sophistication to litigation, particularly involving individual litigants, like Defendant Lee, who are less familiar with preservation obligations. Id.

b. Evaluation of Measures Under Rule 37(e)

If the court determines Rule 37 applies, the court may resort to Rule 37 (e)(1) measures only upon a finding of prejudice to another party, as a result of the lost information. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes. Once a finding of prejudice is made, the court is authorized to employ measures "no greater than necessary to cure the prejudice." Fed. R. Civ. P. 37(e)(1). The court's discretion under a Rule 37(e)(1) sanction is broad, and can include minor sanctions, such as the awarding of attorneys' fees. (Apple Inc. v. Samsung Elecs. Co., Ltd., 888 F. Supp. 2d 20 | 976, 1135 (N.D. Cal. 2012)). However, the court's authority to order measures does not require it to do so as the measures are not meant to cure every possible prejudicial effect. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes.

Rule 37(e)(2) authorizes courts to use very severe measures to address or deter failures to preserve electronically stored information. However, these measures can only be used when there is a finding that the party acted with the intent to deprive another from information. Fed. R. Civ. P. 37 (e) 2015 advisory committee's notes.

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Negligent or even grossly negligent behavior does not support an adverse-inference instruction. *Id.* Information lost through negligence may have been favorable to either party, including the party that lost it, and inferring that it was unfavorable to that party may tip the balance at trial in ways the lost information never would have. *Id.* Courts are advised to exercise caution in using the measures specified in subdivision (e)(2). *Id.* Finding an intent to deprive another of lost information does not require a court to adopt any of the measures listed in (e)(2). *Id.* The remedy should fit the wrong, and the severe measures in (e)(2) should not be used when the information lost was relatively unimportant or lesser measures would be sufficient to redress the loss. *Id.*

III. ARGUMENT

a. Federal Rule of Civil Procedure Rule 37(e) Does Not Apply

Federal Rule of Civil Procedure Rule 37(e) does not apply because Lee was not aware of this lawsuit until he was served and Lee took reasonable steps to preserve data on his cell phone, including having his cell phone imaged less than 30 days after answering plaintiffs' Complaint.

i. <u>Duty to Preserve Did Not Arise Until Lee Was Served</u>

Lee was not aware of this lawsuit until he was served on June 21, 2016. There is no evidence to suggest Lee was aware of any of the "press attention" plaintiffs' allege in their motion. Further, plaintiffs never served a preservation demand letter to either Lee or his counsel. (Lutz Decl. ¶ 2). At best, the duty to preserve could only apply to the following eight text messages, exchanged between Lee and his codefendants, after Lee was served with this lawsuit: (Exhibit B)

<u>Date</u>	<u>Time</u>	<u>Name</u>
7/29/16	9:18 a.m.	Franky Ferrara
7/29/16	8:59 a.m.	Franky Ferrara
7/20/16	6:51 a.m.	Charlie Ferrara

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1	7/20/16	6:23 a.m.	Charlie Ferrara
2	6/30/16	2:06 p.m.	Allen Johnson
3	6/30/16	2:05 p.m.	Allen Johnson
4	6/30/16	1:54 p.m.	Charlie Ferrara
5	6/30/16	1:38 p.m.	Allen Johnson

However, the duty only extends to evidence the defendant "knows or should know is relevant to a claim." (Compass Bank v. Morris Cerullo World Evangelism, 104 F. Supp. 3d 1040, 1051 (S.D. Cal. 2015). The text messages are irrelevant to plaintiffs' claim because they occurred nearly six months after the alleged incidents. Lee testified in his deposition that he never received a text from anyone regarding the lawsuit. (Lee Depo. p. 16: 16-22). Further, there is not a single text message between Lee and his co-defendants during January and February 2016, the date of 13 || the alleged incidents. (Exhibit B). In fact, there is only one text from Angelo Ferrara on February 9, 2015, a year before the alleged incidents with Spencer and Reed, occurred. (Exhibit B). No other texts were exchanged between Lee and his codefendants until March 25, 2016. (Exhibit B).

In order for Defendant Lee to have conspired in these incidents, as Plaintiffs allege, he would have had to communicate with his co-Defendants prior to or immediately after the January and February 2016 incidents, not months after the alleged incidents occurred. There is no reason to believe any of the text messages after January and February 2016 are relevant to this case. Plaintiffs make no claim that they were harmed at Lunada Bay after February 2016. Therefore, any text messages after that date are irrelevant to this lawsuit.

ii. Lee Took Reasonable Steps to Preserve Text Messages

A file system extraction of Sang Lee's iPhone was completed on August 18, 2016. (Morales Decl. ¶ 8). In an effort to obtain the body of unrecoverable texts, a physical extraction of Lee's phone was also completed. (Morales Decl. ¶ 12).

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However, the content of Lee's text messages could not be retrieved. (Morales Decl. ¶ 17). In further effort to obtain the body of unrecoverable texts, several tests were completed on the cell phone including a Cellebrite analysis, IEF Axiom analysis, manual review of the SMS database, and a BlackLight analysis. (Morales Decl. ¶ ¶ 13-16). Despite these efforts, and through no fault of Lee's, the content of these text messages could not be obtained. *Id*.

There is no evidence to suggest any of the text messages between Lee and his co-defendants were deleted. In fact, evidence would suggest they were not. Deleted text messages were recoverable from the file system extraction of Sang Lee's cell phone. (Morales Decl. ¶ 21). There were 120 text messages flagged as "deleted." *Id.* None of the 120 deleted text messages were between Lee and his co-defendants. (Exhibit B). The forensic analyst could not make a determination on what caused 846 text messages on Lee's phone to be unrecoverable, but it could include any of the following factors: the type of iOS (operating system) of the device, the amount of free storage that is remaining on the device, the amount of user activity on the phone, and the length of time the text message was flagged for deletion. (Morales Decl. ¶ 19).

Even if we assume the text messages between Lee and his co-defendants had been deleted by Lee, the deletion itself would not have caused the body of the text message to be unrecoverable. A text message becomes unrecoverable when it is overwritten by new data. (Morales Decl. ¶ 20). A message flagged as deleted remains on the device until it is overwritten. (Morales Decl. ¶ 20). The body of a text message can be overwritten as a result of the type of iOS (operating system) of the device, the amount of free storage that is remaining on the device, the amount of user activity on the phone, and the length of time the text message was flagged for deletion. (Morales Decl. ¶ 19). Therefore, even if Lee had deleted the text messages, the text messages would still have been recoverable but for factors

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outside of Lee's control.

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b. The Court Should Not Take Measures Under Rule 37 (e)(1) or subdivision (e)(2)

i. Plaintiffs Are Not Prejudiced from the Loss of Information

Even though plaintiffs had knowledge of the existence of text messages between Lee and his co-defendants, they never asked Lee a single question about their content during his nearly eight hour deposition. (Lutz Decl. ¶ 8). Clearly, the substance of these text messages were not of great concern to plaintiffs and they will not be prejudiced as a result. Further, there is no evidence to suggest any of the text messages relate to this lawsuit. Not a single defendant or witness in this case has testified they received or sent text messages to Sang Lee regarding the alleged incidents. (Lutz Decl. ¶ 9). Defendant Lee testified he never received any text messages relating to this lawsuit. (Lee Depo. p. 16: 16-22). And all of the text messages occurred months after the alleged incidents. (Exhibit B).

In addition, plaintiffs were free to pursue other means of discovering the content of these text messages, through the other co-Defendants. However, not a single co-Defendant was questioned in their deposition about the text messages from Sang Lee's Extraction Report. (Lutz Decl. ¶ 10). And plaintiffs never served discovery to any of the other co-Defendants regarding the text messages identified in Sang Lee's Extraction Report. *Id*.

Even if the Court determines there was a prejudice against plaintiffs, the Court is not required to order sanctions that would cure every possible prejudicial effect. While Defendant believes no sanctions should be awarded, in the event the Court disagrees, lesser sanctions must be imposed. Sanctions pursuant to Rule 37(e)(2), such as dismissal of defendant's summary judgment motion or an adverse inference jury instruction, cannot and should not be granted.

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ii. Lee Did Not Act With Intent to Deprive

Of the 854 unrecoverable text messages, 17 are between Lee and his co-defendants. Text messages between Lee and his co-defendants are not the only text messages that were determined to be unrecoverable. Hundreds of text messages were unrecoverable from Lee's phone. There are many variables as to why the text messages are unrecoverable including the type of iOS (operating system) of the device, the amount of free storage that is remaining on the device, the amount of user activity on the phone, and the length of time the text message was flagged for deletion. Because such a large number of text messages were unable to be recovered, there is no indication Lee intended to deprive plaintiffs of their right to view the body of these particular text messages. The body of these text messages simply are no longer in existence on the phone, along with hundreds of other text messages with individuals unrelated to this suit.

Further, Defendant Lee stated under oath during his deposition that he did not delete any text messages relating to this lawsuit. (Lee Depo. p. 22:24-25; p. 23:1).

The remedy should fit the wrong, and the severe measures in (e)(2) should not be used against Defendant Lee. Lee is an individual and unfamiliar with the sophistication to litigation and more notably, the sophistication of data preservation of his cell phone. In an effort to take reasonable steps to preserve cell phone data, less than 30 days after filing his answer, Lee had his cell phone imaged. He has engaged in extensive and costly testing of his cell phone in order to obtain these text messages, to no success. As plaintiff's counsel agrees, a typical user cannot control when data is overwritten. Lee acted swiftly to preserve the data, but for reasons outside of his control, the data was no longer present on his phone.

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CONCLUSION 1 IV. For the foregoing reasons, Defendant Lee respectfully requests this Court 2 deny plaintiffs' motion for sanctions. 3 4 DATED: October _5_, 2017 LEWIS BRISBOIS BISGAARD & SMITH LLP 5 6 /s/ Tera A. Lutz By: 7 Dana Alden Fox 8 Edward E. Ward, Jr. Tera A. Lutz 9 Attorneys for Defendant, SANG LEE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 **28** 2:16-cv-2129 11 4824-1445-2817.1

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DECLARATION OF TERA A. LUTZ

I, Tera A. Lutz, declare as follows:

- 1. I am an attorney duly admitted to practice in all of the courts of the State of California and I am an associate with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for Defendant SANG LEE herein. The facts set forth herein are of my own personal knowledge, and if sworn I could and would competently testify thereto.
- 2. On August 18, 2017, Lee's phone was retained by a forensic analyst for imaging in order to preserve evidence on his cell phone. This was completed despite the fact plaintiffs never served Lee or his counsel with a preservation demand letter.
- 3. On December 12, 2016, Defendant Lee produced a redacted copy of an extraction report generated as a result of imaging Defendant Lee's cell phone.

 Attached hereto as Exhibit "A" is a true and correct copy of select excerpts of the extraction report produced in Defendant Sang Lee's Responses to Plaintiff's Request for Production of Documents, Set One.
- 4. The extraction report includes an extensive amount of information obtained from Sang Lee's cell phone, including but not limited to, text messages, images, installed applications, location history, user dictionary, and web bookmarks. Attached hereto as Exhibit "B" is a true and correct copy of select excerpts of the extraction report, produced in its entirety, as ordered by Judge Oliver on July 19, 2017.
- 5. While the date, time, and receipt information for text messages on Sang Lee's phone could be obtained, the body of a majority of Lee's text messages could not be recovered. In fact, a majority of the unrecoverable text messages were between Lee and individuals unrelated to this suit.
- 6. Attached hereto as Exhibit "C" is a true and correct copy of select excerpts from Sang Lee's deposition taken on May 31, 2017.

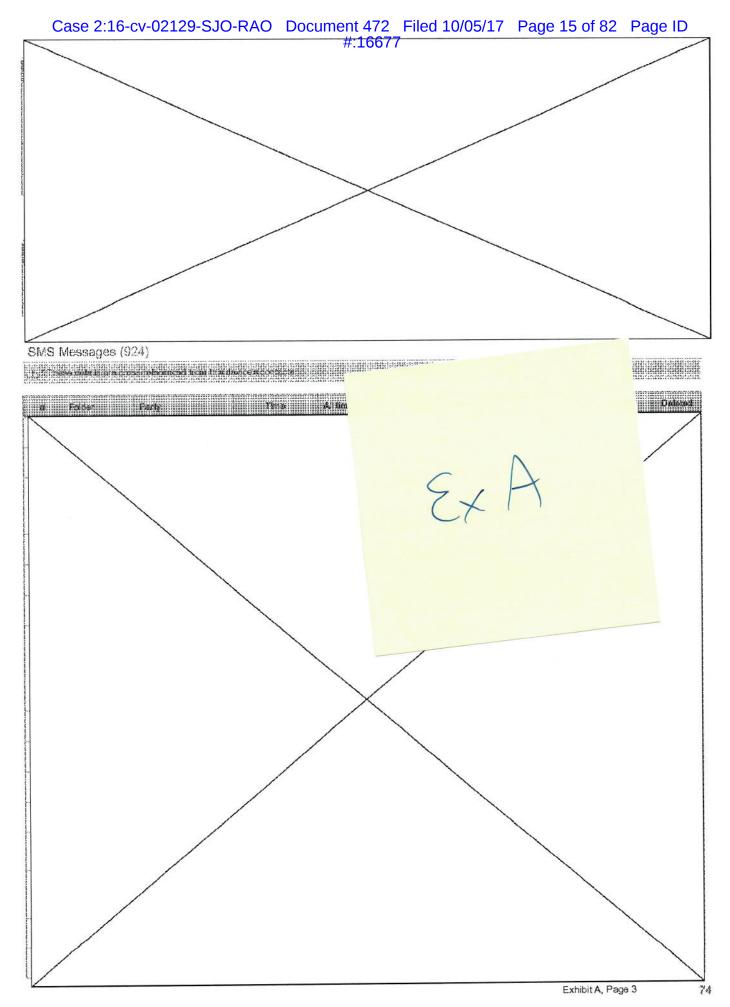
- 7. On September 5, 2017, Magistrate Judge Rozella A. Oliver ordered Lee to seek out further methods of recovery to determine whether the body text messages between Lee and his co-Defendants could be obtained.
- 8. Even though plaintiffs had knowledge of the existence of 17 text messages between Lee and his co-defendants, they never asked Lee a single question about their content during his nearly eight hour deposition.
- 9. Not a single defendant or witness in this case has testified they received or sent text messages to Sang Lee regarding the alleged incidents.
- 10. However, not a single co-Defendant was questioned in their deposition about the text messages from Sang Lee's Extraction Report. And plaintiffs never served discovery to any of the other co-Defendants regarding the text messages identified in Sang Lee's Extraction Report.

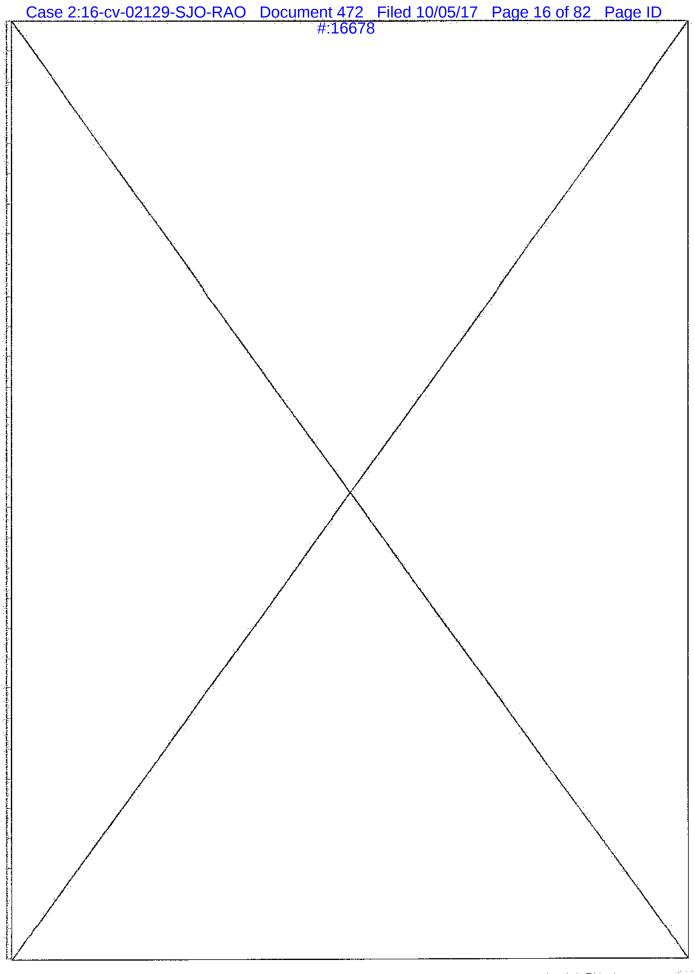
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on October 5, 2017, at Los Angeles, California.

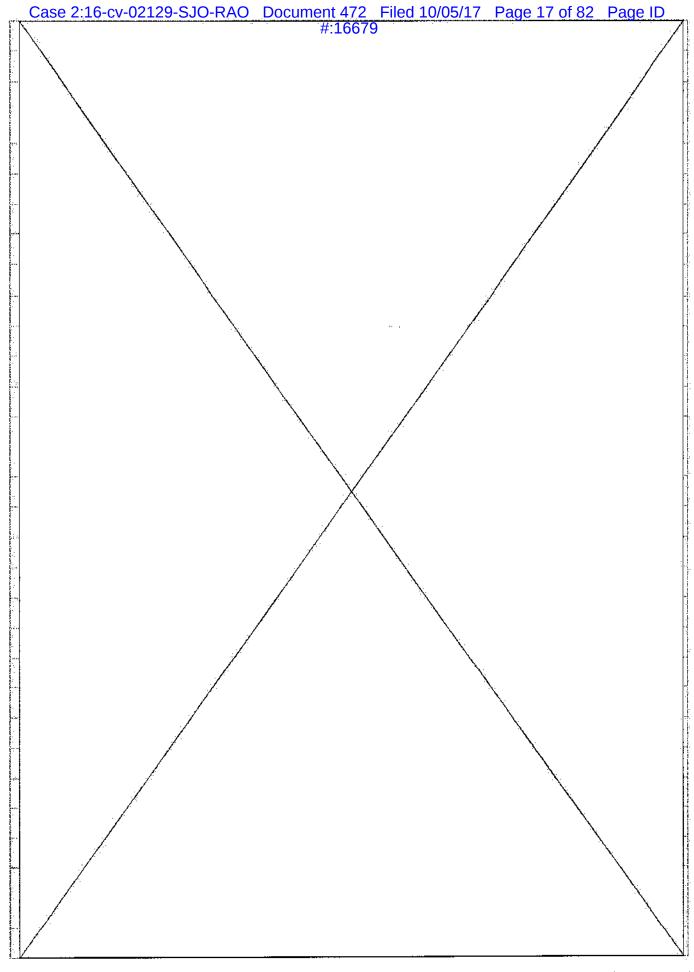
/s/ Tera A. Lutz Tera A. Lutz

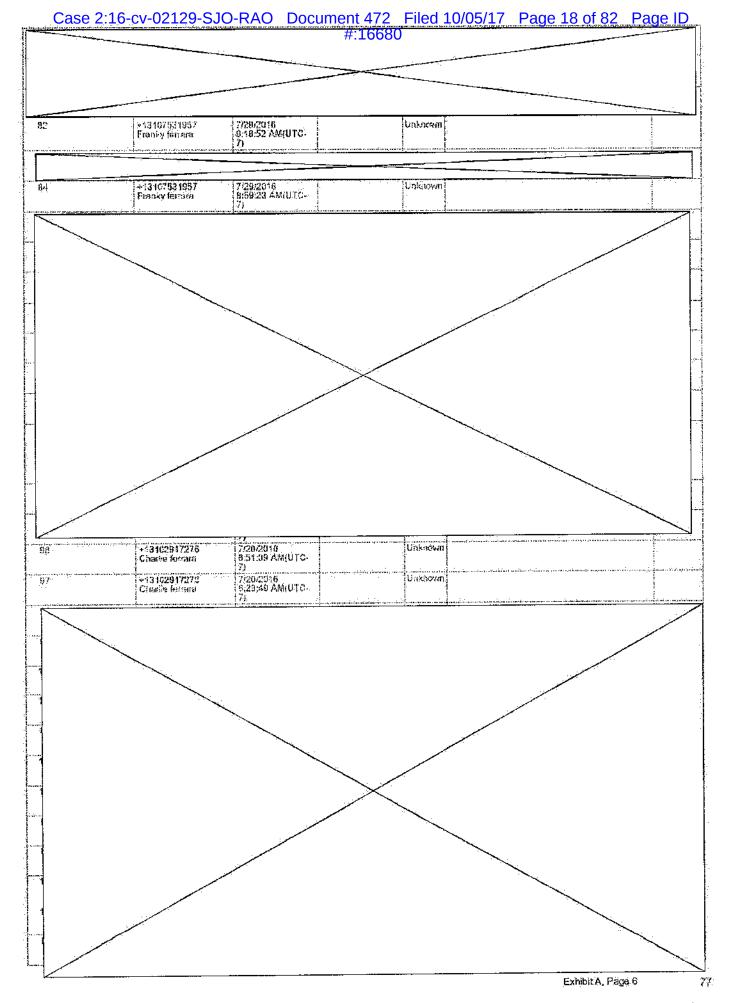
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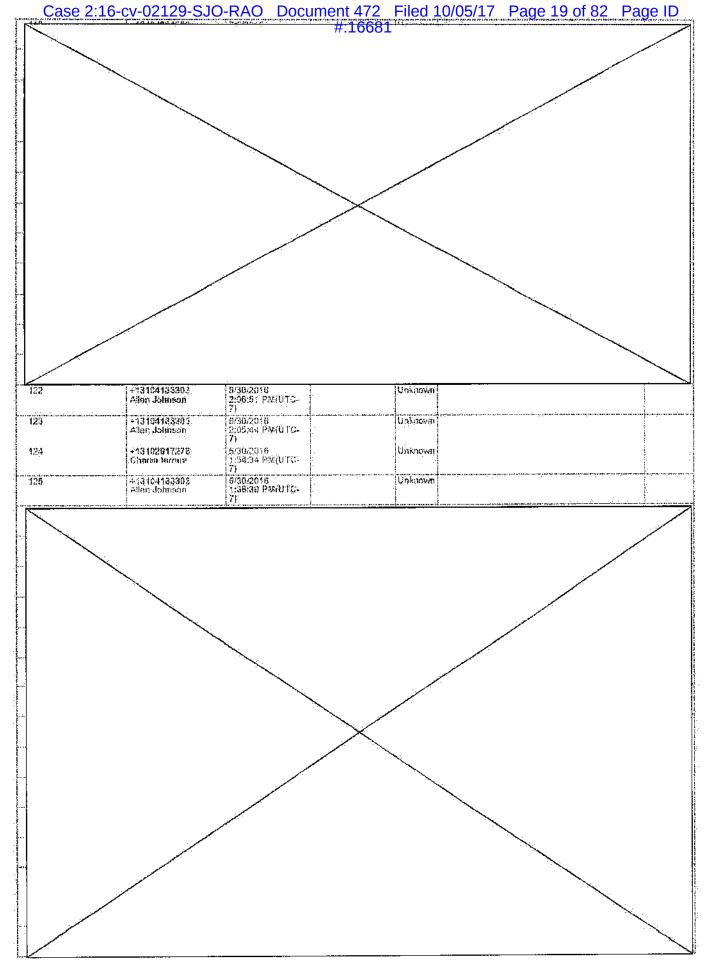
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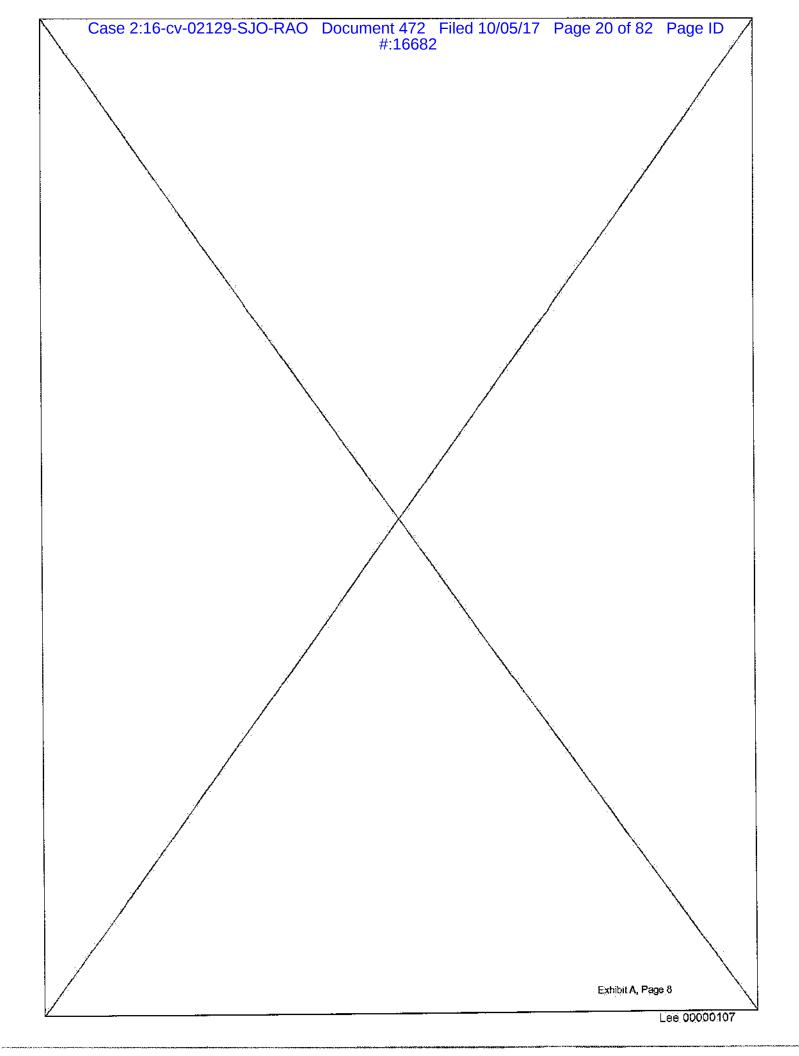


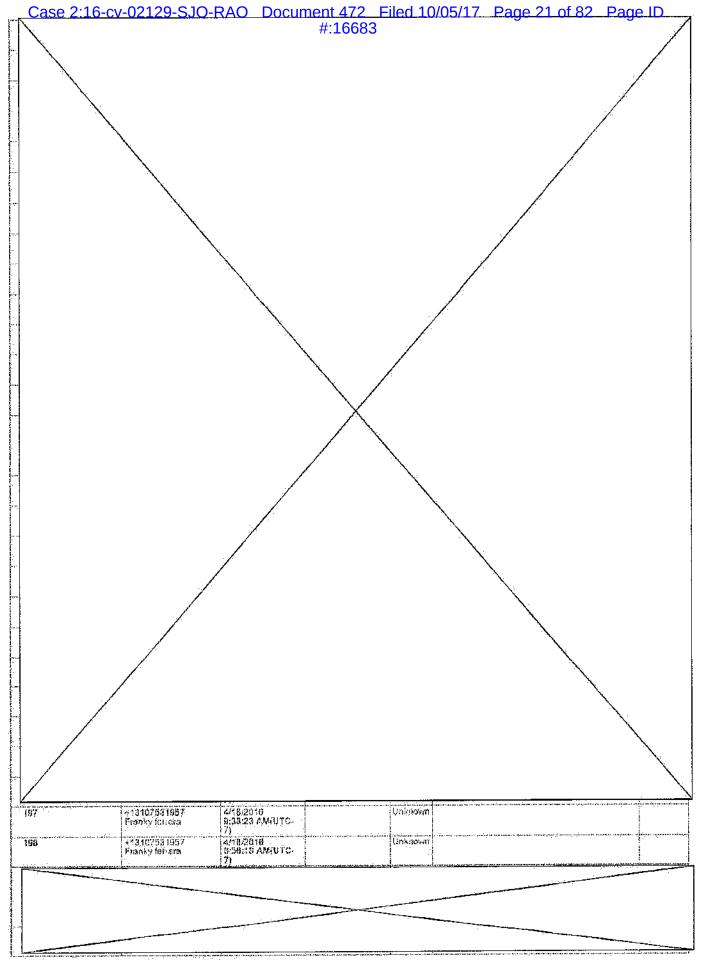


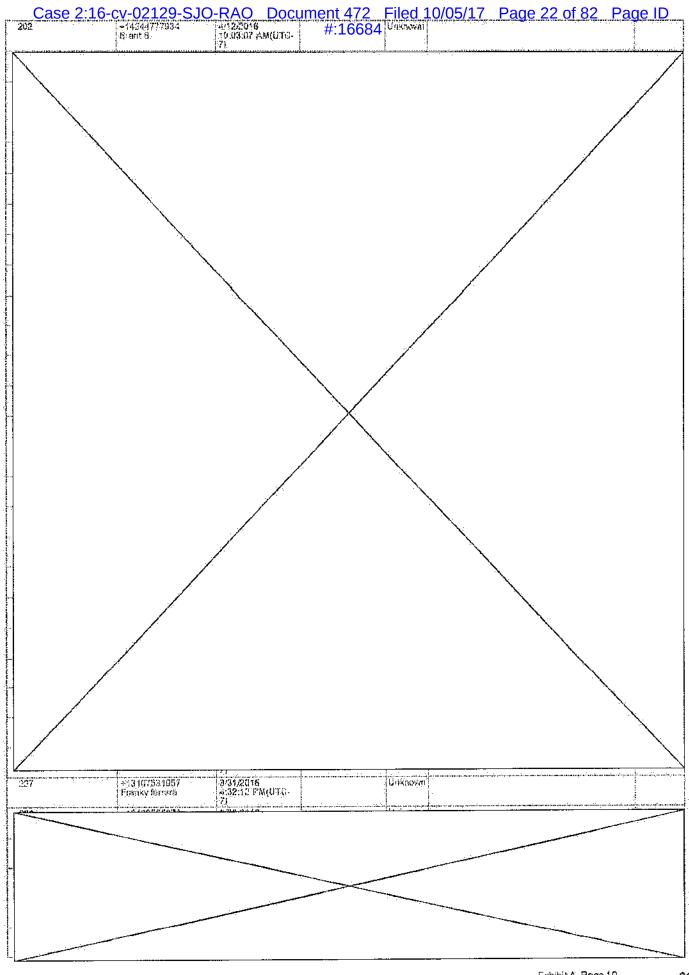


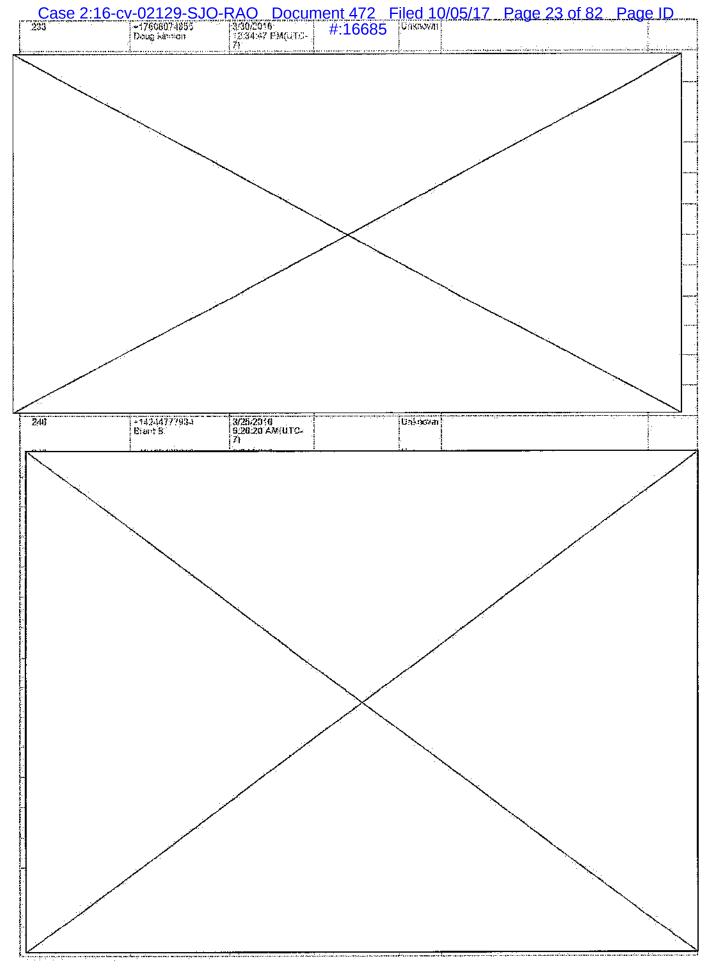


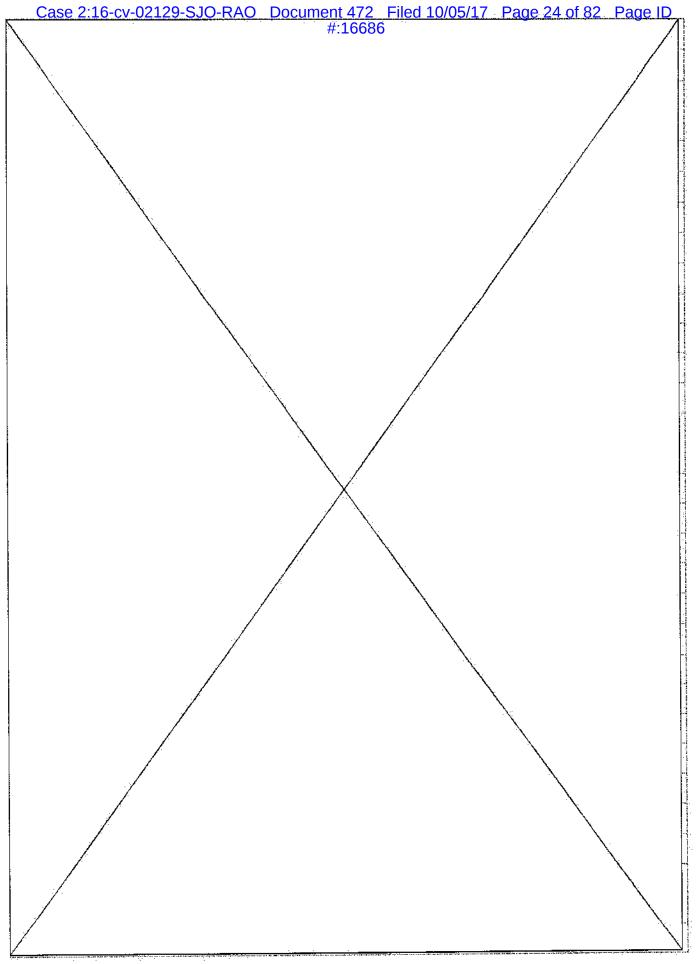


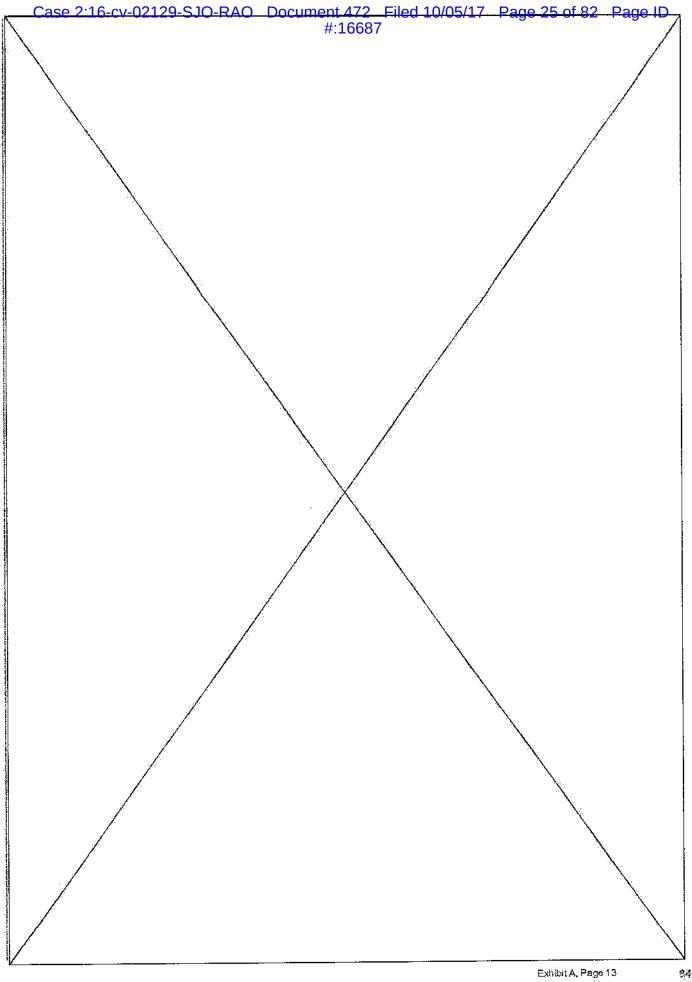


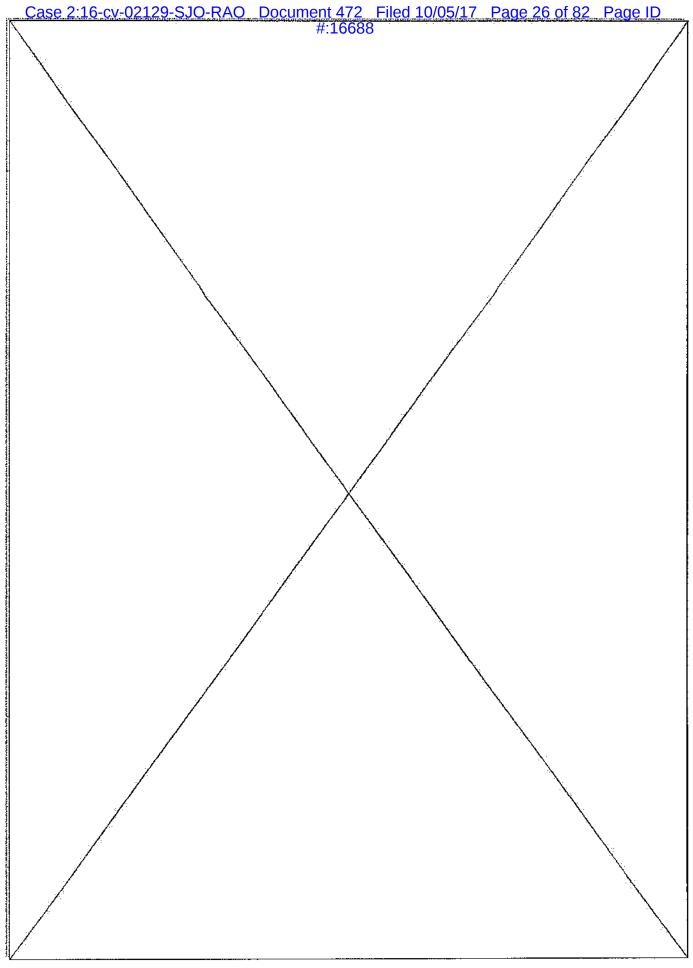


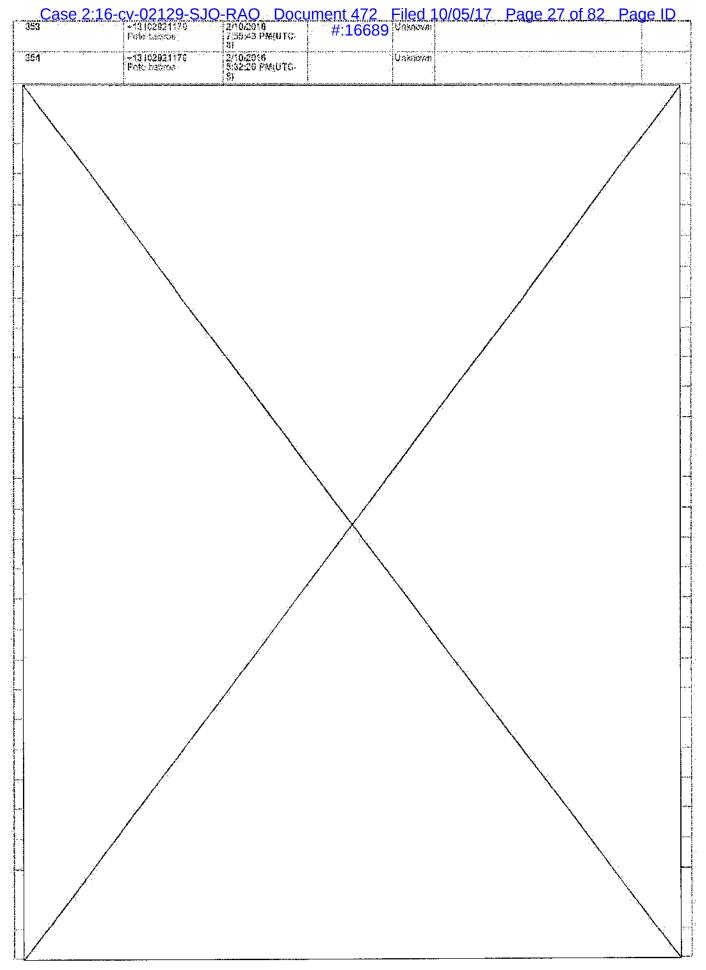


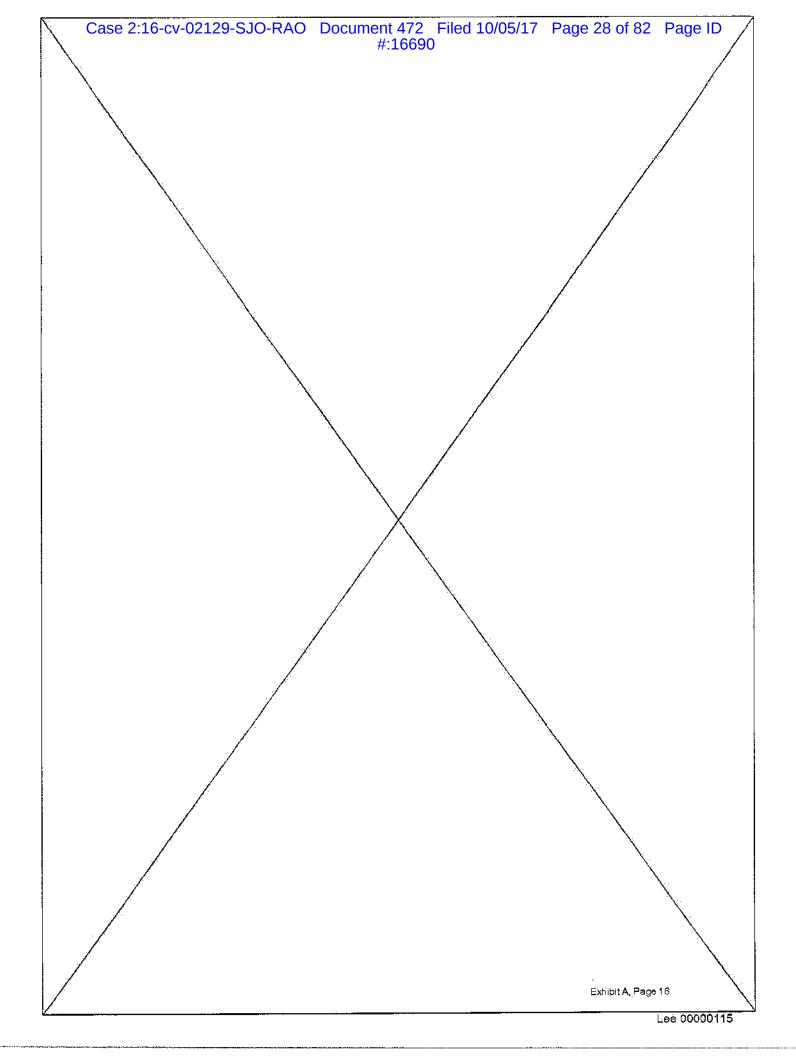


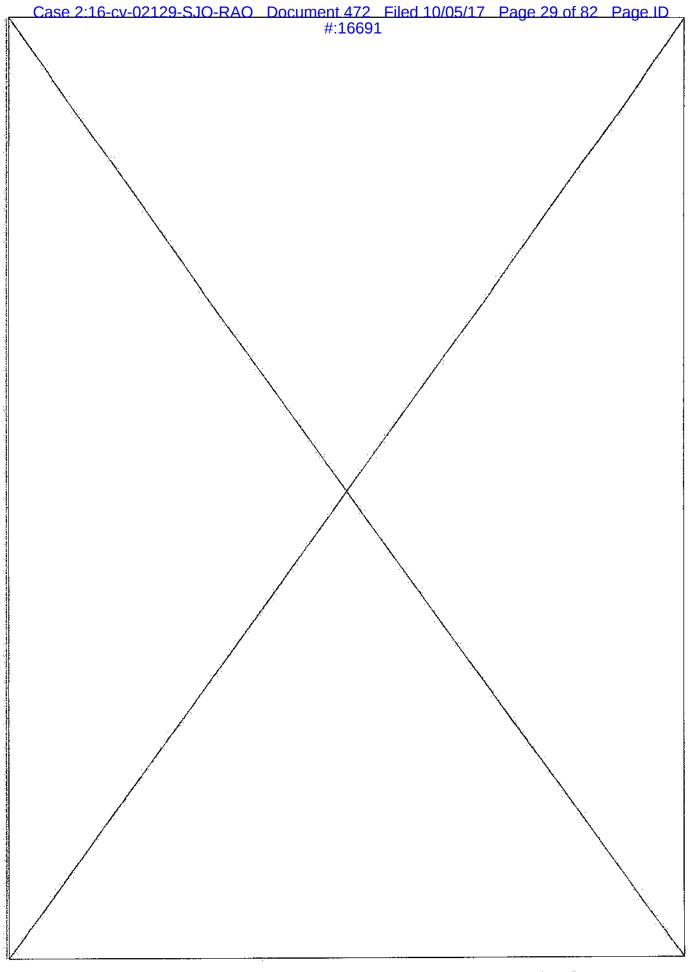


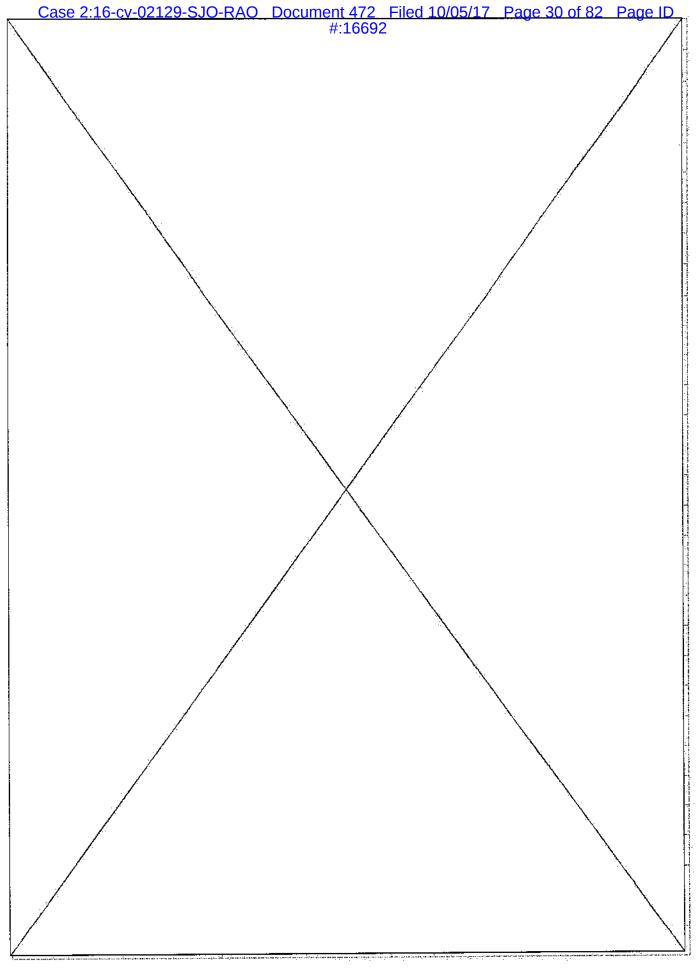


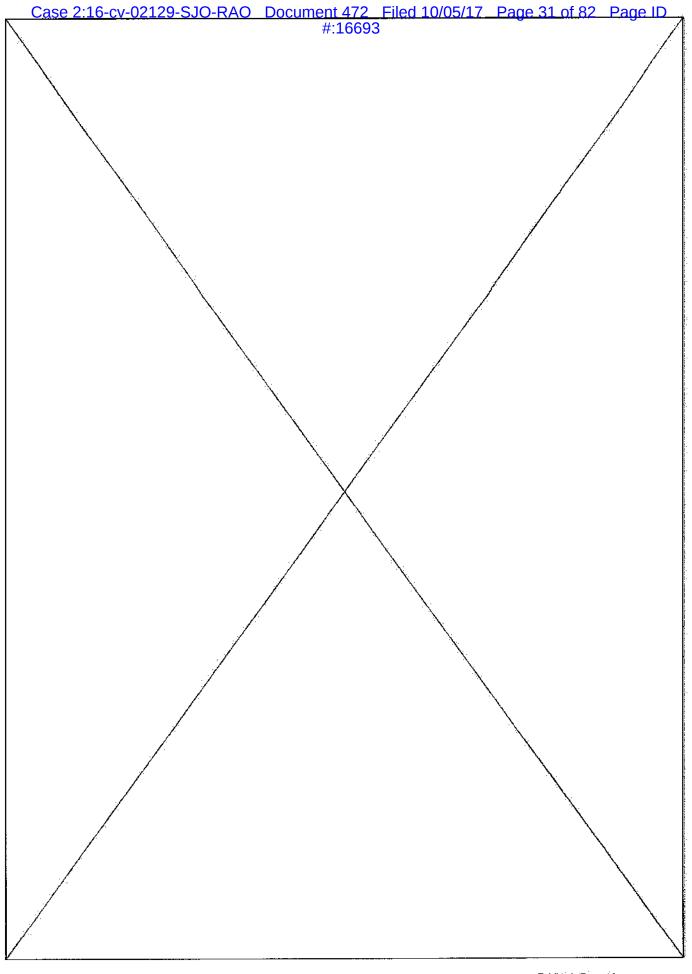


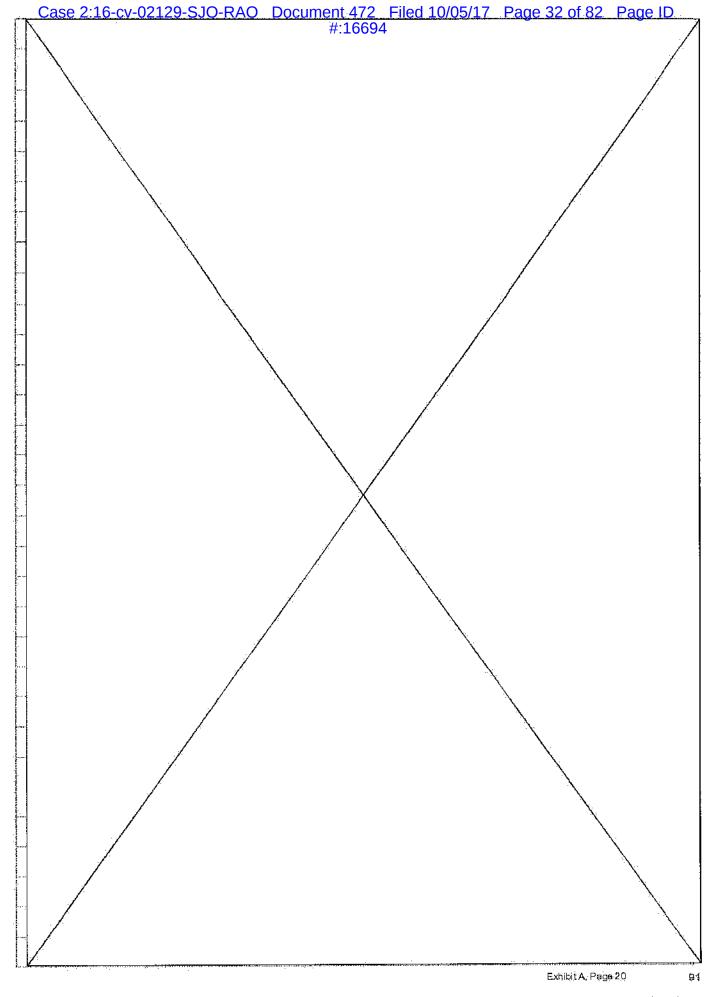


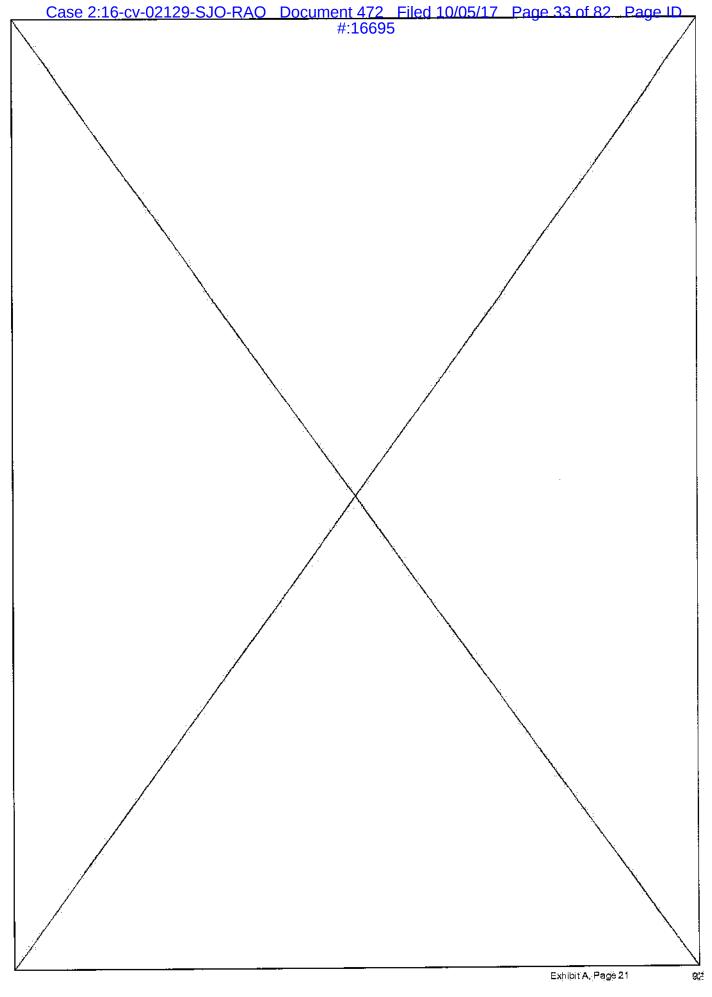


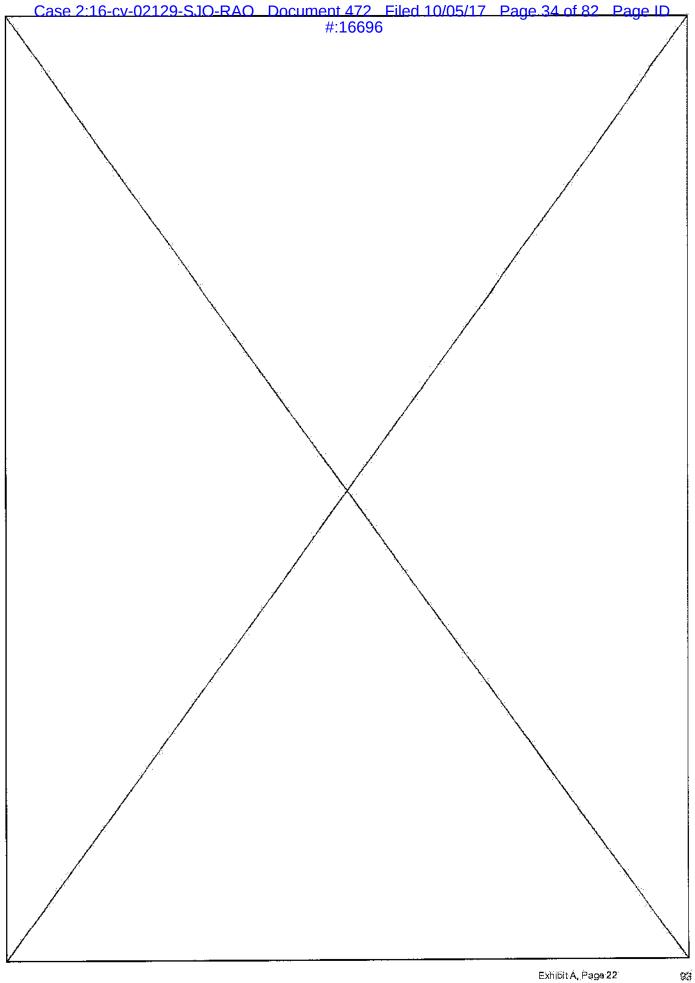


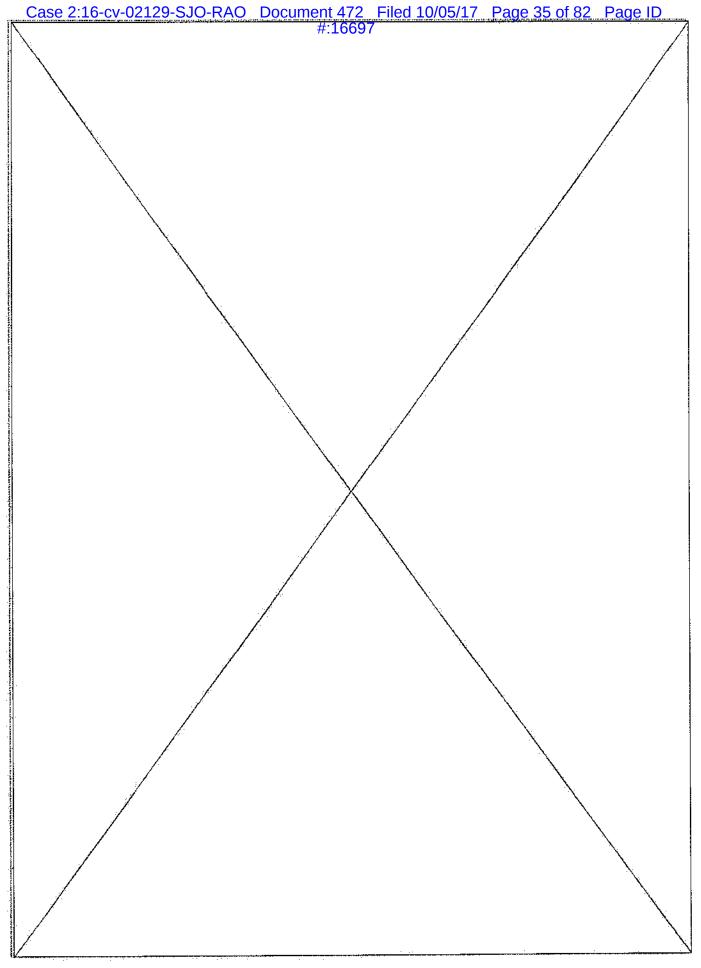


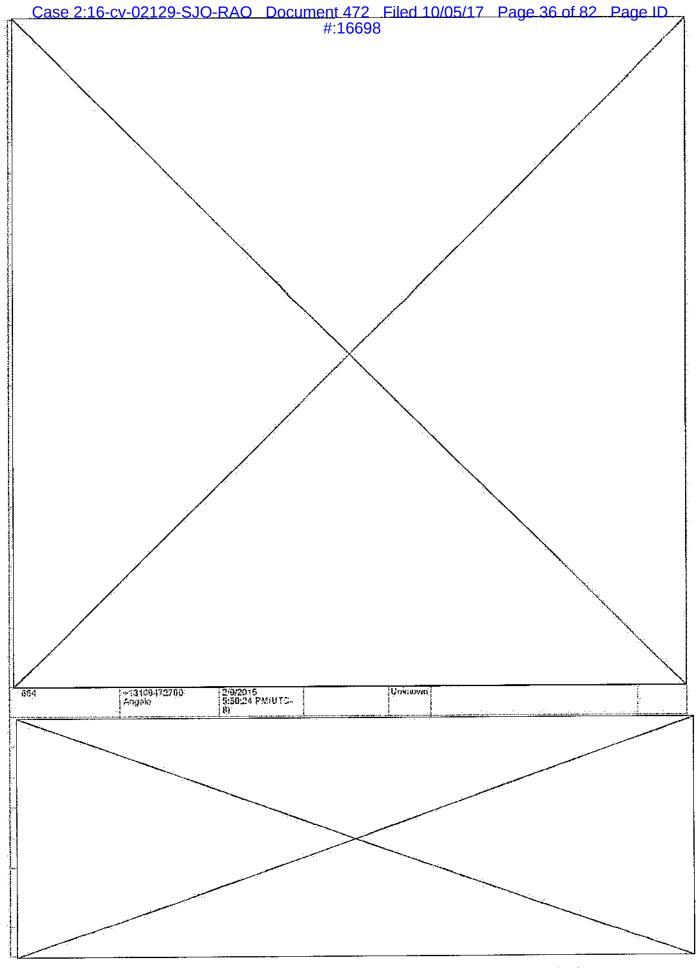


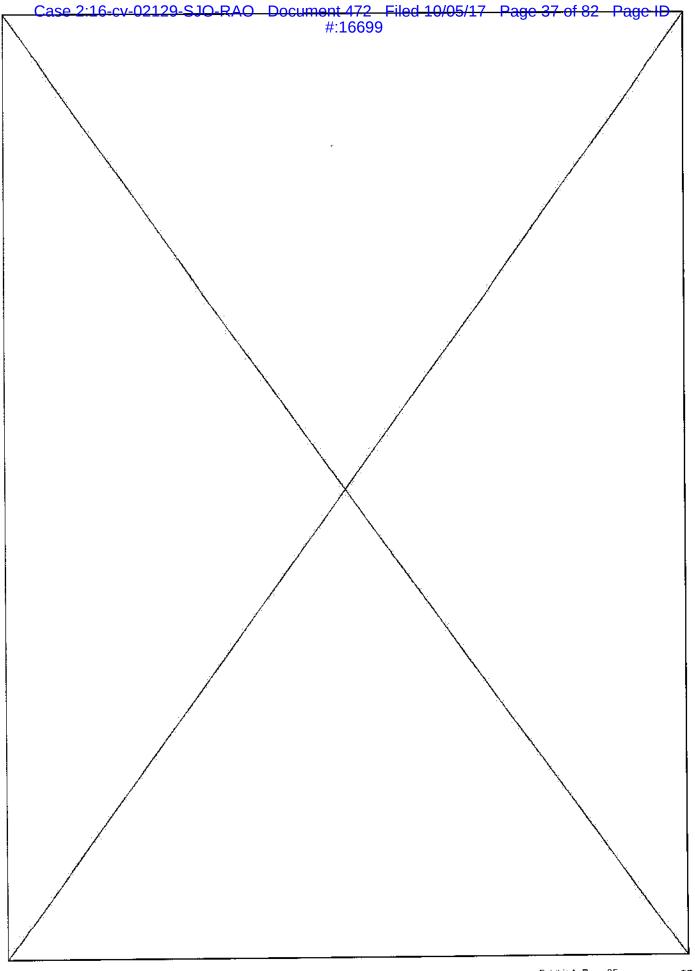






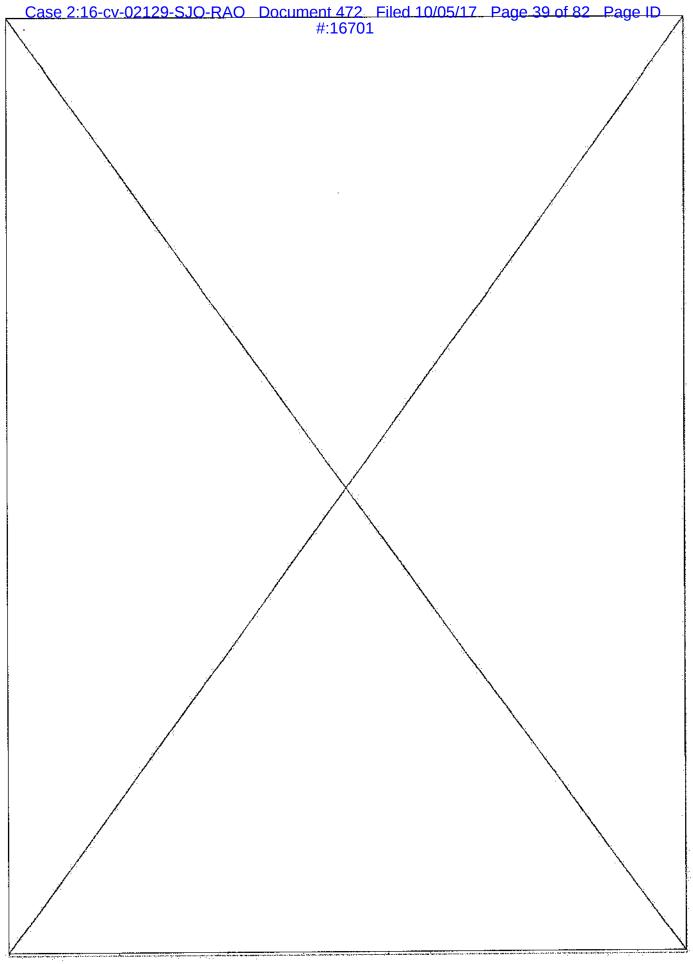


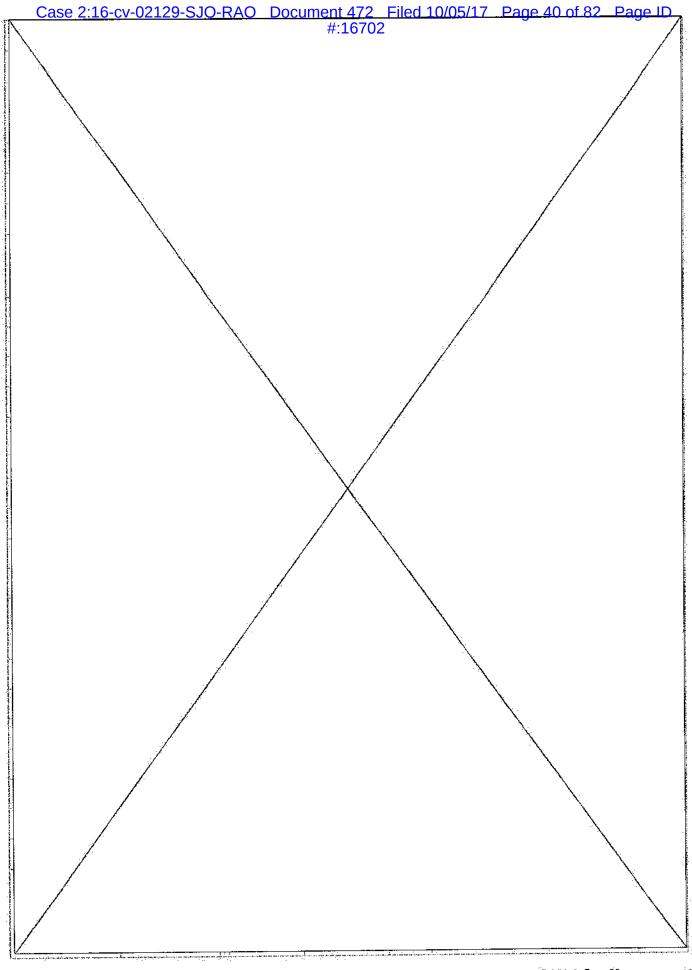


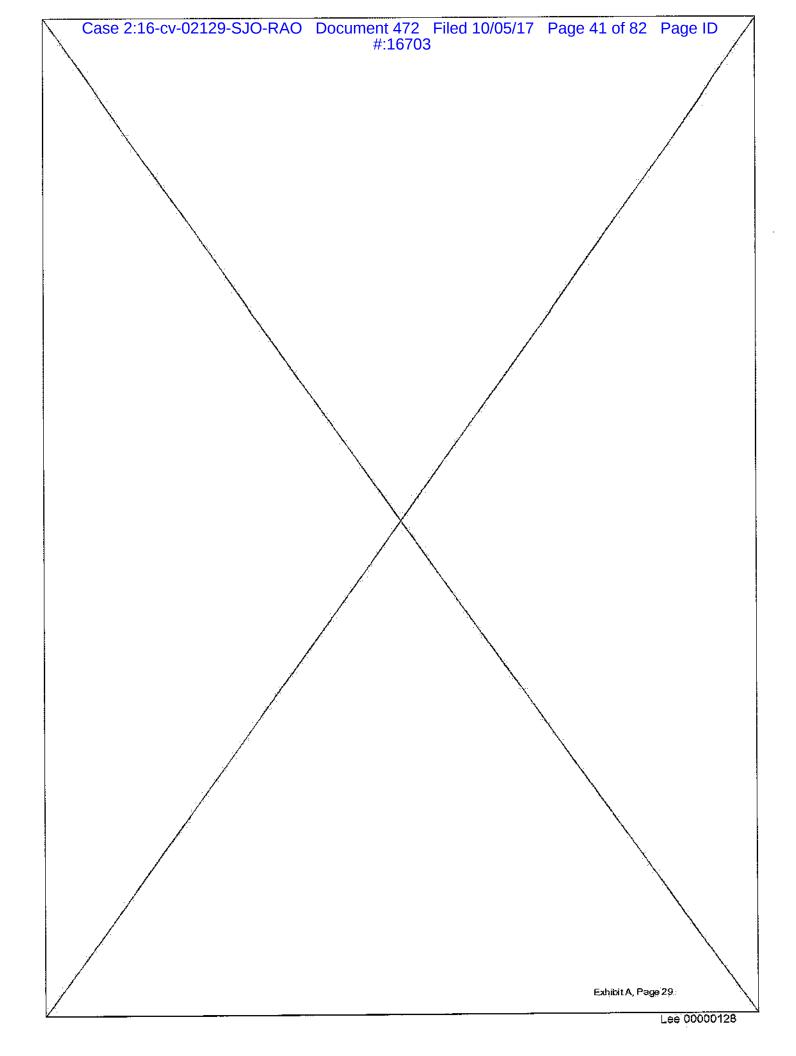


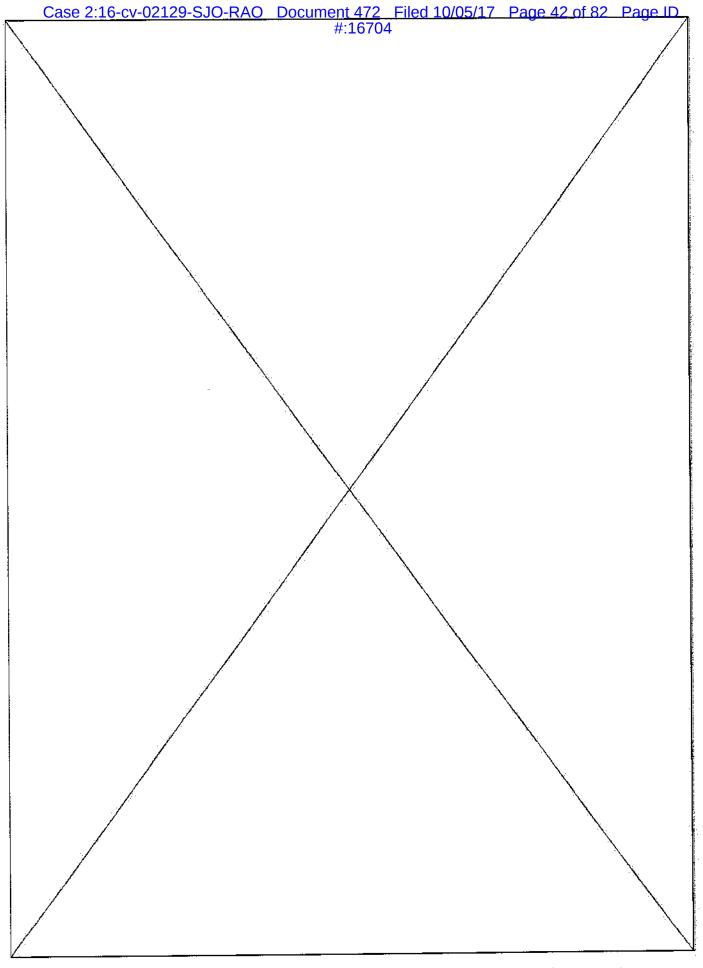
Case 2:16-cv-02129-SJO-RAO Document 472 Filed 10/05/17 Page 38 of 82 Page ID

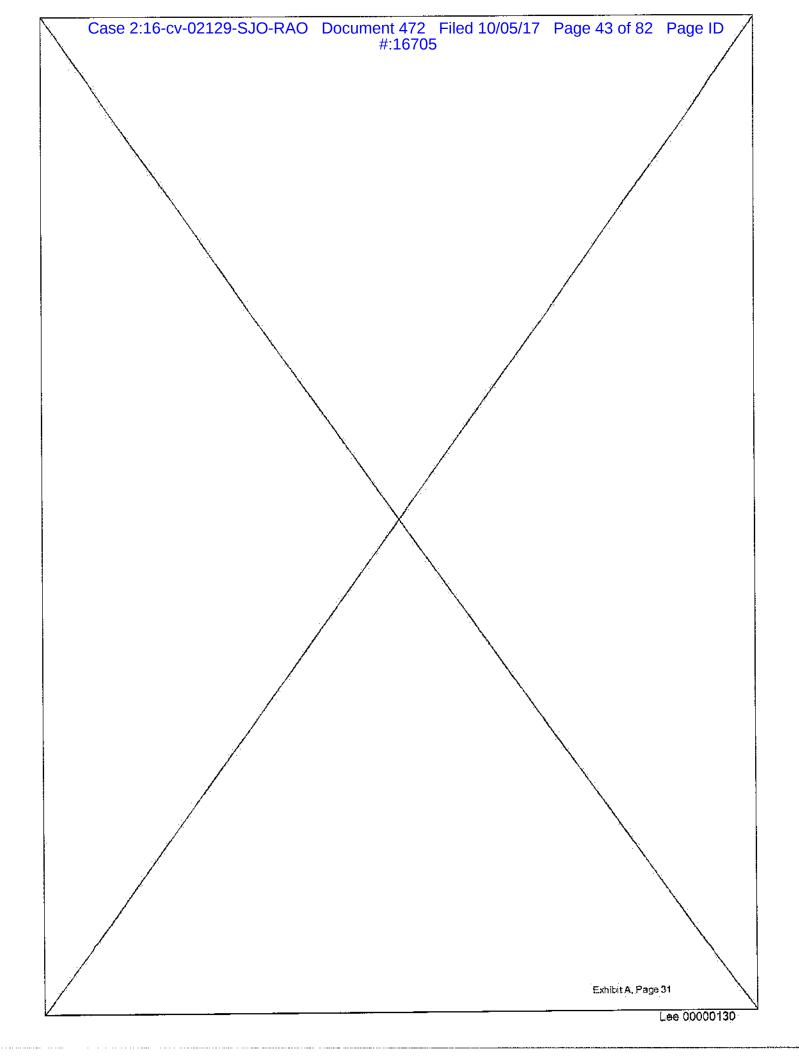
127/2014 #:16700 University #:

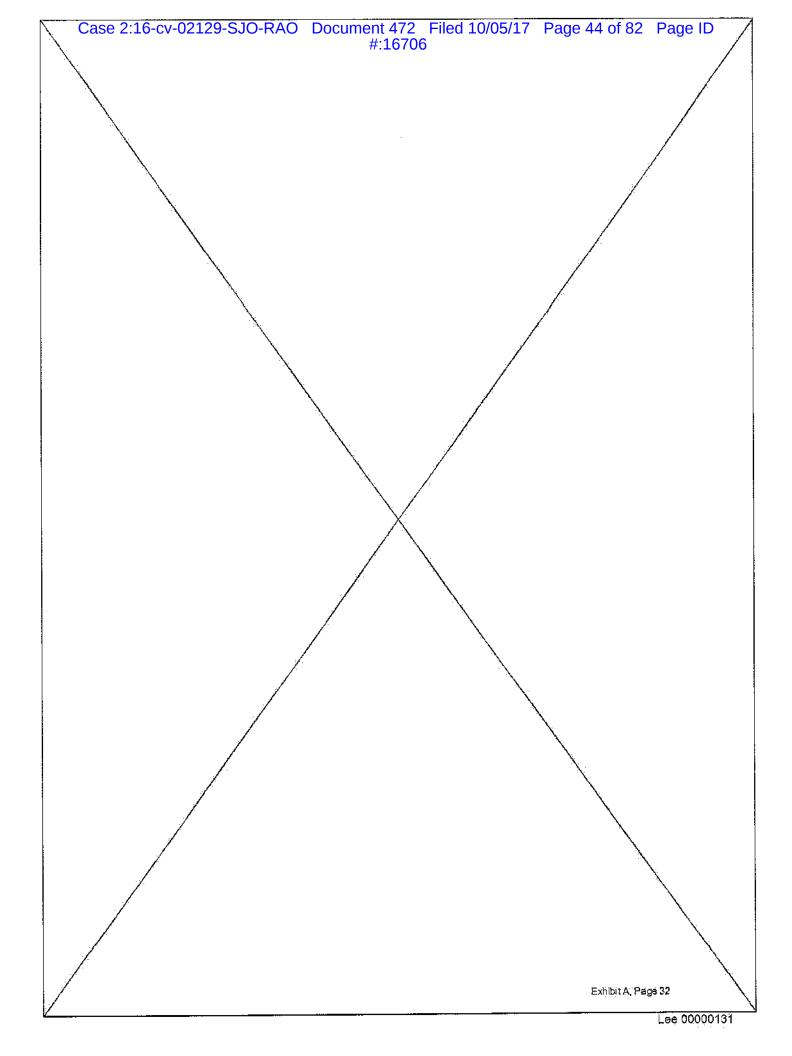


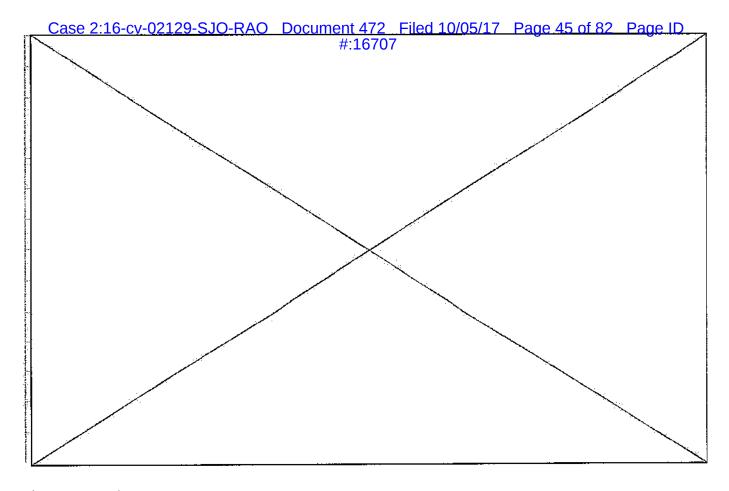












User Accounts (8)

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şmanını, 1141. - Ş.	Creation time Untername: ylestingholmaticom			
	Sarvice Type: 457 F0987-9582- 4542-888F-25D864C57404			
2	Creation time: Vegrama: sengdatigdoode@yellos.com		and a supplication of the	· · · · · · · · · · · · · · · · · · ·
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EXHIBIT 66B?

Case 2:16-cv-02129-SJO-RAO Document 472 Filed 10/05/17 Page 47 of 82 Page ID #:16709

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Ť	Created: 9:7/2016 8:54.16 \M(UTC-7) Modified: 8:7:2016 8:25:15 AM(UTC-7)	Titler Etter E. possin blyd. belween revereit nagenne Body: 3001 E. ppeun blyd. petwoen revereit nagenine	
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SMS Messages (C24)

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r.	Fordar	Party	Torio	All threathness	Status	Merange	Oriela
Ī	Sent	To	8/17/2015 11:38:04 AM(UTC)		Sunt	30341 camino porvenir	
2		Yoakiey* Yoakiey Yoakiey	#17/2016 		Unknown	and the state of t	
**	Sent	To 4 38418 Nic sandoval	9/17/2016 9:44:52 AM/JF C- 7)		Sent	Hay nic cit u find out about the drains for the flat- roof?? What size they have to be n if u need an overflow. (I don't think u road an everflow because there's no parapet wall) Let me know assa, because I have to got them made Do u want gopper drains or is just metal ok ??	
١	aga an ta caranta fi ca caranta	1-lic sandoval	8/17/2016 9:44:45 AM(CTC- 7)	Carl combigues con conservation (1995) R P	Unknown	Control of the contro	
5	r\$ent,	To F4 200 E 109 Dan shotraan	9:27:53 AMUTO		Sen.	Great Thanks	l E
Ŕ	:	0630 assertion of the Control of the	8 17/2016 6:27:49 AM; J. C-	1.1	Doknown	agrama, a mang di sengan melanda sambijanan kenandara kenanda kenanda kenanda kenanda kenanda samban sebagai s	+:
7	Inoox	From + 0.39 Dan Chalman	8/17/20 6 8/27/12 AM/UT C- 7)		Read	No problem: Bany will be lifete to note:	
Ę	Sent	Court Capitation	8/17/2016 8:11:06 AM(UTC- 7)		Sent	Hi Oan good arin Just weated to lot u know I will be an one of the cors and the constant was a first constant with way should be moved in the arm of someone has to move them when the loaders come to deliver the materials in the arm (around 18am)	You
g		9609 Can choliman	8/17/2616 8/10/51 AM(UTC- 7)	***************************************	Unlinown	7	
10	Нирок	a, diameter of the second of the	8/17/2016 8/09/42 AM/UTC 7).	Sarah mangangang san araw S	Read	Ok	Yes
11	.S.a.		8/17/2016 8:05:17 AM(UTO-		Sort	Hey Eddler that address for set is 2501 234th st. Torrance ca.	Yes
٠.	/ = e	4 575 Eddio - Roofer	8/17/2016 8/05:12 AM(UTC-	· ·····	Unknown	arian de per mijorani, mar ja aria e rama i parti de la 	
13"	Inbox	į	9/18/2018 6:55/90 PM(UTC- 7)		Read	Hi Sang, five got a vendor ready to dick up your idolog and phone. I just jeft you a win. Please give male call when you have a money to diccuss. That he	Yes
14	Inbox	,	8/18/2016 3:43:29 PM(UTC- 7)	The same of the same of	Read	Thenko for your payment of \$38.06 to T-Mobile! Your check was succer of \$27 pricessed on \$97.07 to the was succer of \$27 pricessed on \$97.07 to the was succern. The \$27 pricessed on \$100 prices. The \$27 prices of \$100 prices.	YES
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15	J.Sent		813/9919 1113:12 PM(UTC-	***************************************	Sent	Thenks	Yes

Case 2:16-cv-02129-SJO-RAO Document 472 Filed 10/05/17 Page 48 of 82 Page ID #:16710

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17	1	+1 5913 Hyuns Cel.	8/15/2016 -:13:02 PM(UTC- 7)	Unknown		
18	Intex		8/16/2015 12:25:24 P:NUTC -7)	Read	Eax went out	Yes
15	Sent	Property of the second	18/16/2016 10:01:17 AMOTO	Sent	Ok) will also by after the dog park	Yac
20		+ 5913 Hyuns Cel	(7) 8/16/2016 10:01:14 AKHUTC	Unknown	and and a second a stream of the contract of the second and a second and a second and a second and a second as	
21	Inbox	enell beskill illingsenang enser estely, en per	7) 8/16/2016 10:00:19 AM(JYC)	Read	Yorn Lord he	Yes
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2.5	Inbox	The facility of the state of th	8/16/20/6 3:59:50 AMYUTC-	Read	310	Yes
2-1	Sent.		7) 8/16/2016 9:59:40 AM(UTC:	Sent	R u going to be there between 10:30 - noon n what # nu in 7	Ves
. ?s		5913 Hyuns Cef	8/16/2016 9:56:36 AM(LITC-	Unknown		}
26	Inbox	TO THE REAL PROPERTY OF THE PARTY OF THE PAR	8/18/2016 9:58:23 AV(UTC	Read	l jam dentist office and will be back in 10 win	Yes
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28	والمستون وللداملات المراهد	5913 Hyuns Ce	8/16/2018 9/48/21 AM/UTC	Uakriown	an angangganggangganggangganggangganggan	· · · · · · · · · · · · · · · · · · ·
29	102.1		2/16/2016 10:46:30 AM(UTC- 7)	Rend	Cool Theman	:Yes
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34	e version e de francessador accessão e de la composição d	Crecity	6/13/2016 3:18:30 PM(UTC- 7)	Unknown		-
55		1875 Stephanie / Maggies Ass	8/12/2016 2:45:30 PM(UTC-	Unknown	angalag dan garan andalag dan dalampa, dalampa nd berbahkat saan dalamban d alam	(m.)mekin parajuayi
36	. • - /	7102	8/12/2016 12:48:16 PM(UTC-	Unknown	<u> — para ang ang ang ang ang ang ang ang ang an</u>	[
37		7102	8/12/2016 12:22:12 PM(UTC- 7)	Unknown	The state of the s	
3,5		→ 2102	8/12/2046 12:17:47 PM(UTC-	Unknown	Sa mail in managaman interview a managa na managa na managa na mahant i sa mata masa managa	
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i	; ;	ýtoa Jeif Petty	7) 8/6/2016 5/07/41 PM/DTG	Un nawn	AND THE PROPERTY OF THE PROPER	2
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42		Jest Petry	6/5/2018 4:34:56 PMUTC: 7)	: Disknown		SE MATERIAL PROPERTY.
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59	Inbox		9:27/20.16 9:34:12 AM(UTO- 17)	Unrelyd	And their most year Eddio स उ?	Yes
1 kga	tern.		6(2/2016) 9:23:58 AM(UTC)- 7)	Resd	You will Con.	Yes
61	lint ax		\$22016 9:23:51 AM(UTC- 0)	Read	eTebicoupgest to mee) Dan today at 2 for consultation	Yes
62	Intex		62/2016 9:23-42 AK(UTC- /)	Unresid	With Dan?	Yes
63.	intere		8/2/2016 9/23:16 AM(UTC) 7)		Shall ask for short consultation? In order for him lic on it easy used to sign paper t believe. Agreem: it retaining????	
ଓ୍ୟ	htten		F8/2/2016 9/22/16/AM(UTG- 7)		So Dan Crowley needs to contact tarmers.	Yes
	Insax		9/2/2016 8:22:16 AM(JTC- 7)	Unread	N you want is delay meeting with Eddis, we should \$\display U \display U \display \text{U} \display \text{L47\text{C3942-FFC}}	p\$820 ;
98	Infrax	an ya Nadahii wa ayaya iyo da da	62/2010 9,24:34 AM(UTG- /)	Read	(FSghi)	Yeu
e signimus	inbox		6/2/2016 9/21:13:AM(UTC- 7)		In the RCR lutter. Litrak it said for our preferred independent agent to contact the adjuster.	Yes
	Intrax	MI THE THEORY & AMERICAN HARACON	8/2/2016 9/2013 AM(UTC- 7)	Reun	I We would need to sign paper and give Farme's lins desids to him. I am cold that they lypically tracolizing tens with insurance co	Year
	Inbax	doministrative and the second	8/2/2016 9:19:18 ANKUTC- 7)	Read	Greg sugmeted	Yes
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74 Turingga	ingox Inbox	ومردوده المتابية والمتابية	8/2/2016 9/18/66 AM(OTC- 7) 8/2/2016	Read	Visik to him with Greg last Filesy Why? When are we meeting the independent	Yes Yes
, 72° , 73°		and the second of the second power fields of the	P. 1536 AM(UTC- 7)	Unread	coursel? You've talked to him? 	Yes
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83	0609 Dan .chairman	7) 7/29/2016 9:16:30 AM(UTC-	Unknown	
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98	5611 Steve Henry	7/18/2015 10:22:28 AM(UTC- 7)	Unknown	
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108	0609 Dan chairman	7/7/2016 10:19:08 PM(UTC- 7)	Unknown	
107	1659 Eay Harbor Roofing / Art Gonzales	7/6/2016 11:45:22 AM(UTC- 7)	Unknown	
100	1812	7/6/2016 11:38:02 AM(UTC- 7)	Unknown	
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110	1650 Bay Harbor Reoring / Art Gonzales	7/6/2016 £:24:04 AM(UTG- 7)	Unknown		
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112 Inpox		7/1/2016 3:41:29 PM(J*C-	Unread	A8252585-5189-4A74-8302- DCED0707883350n PCH between TJ's and surbonne, S	Yes
113 Inbox		7) 7/1/20\6 3:41:29 PM(UTC	Unreist	On PGrif between TJ's and narbonne, She's feel better if her hair is done at least.	Yes
t' i linbox		7) 7/1/2016 3:40:48 PM(UTC	Unread	Тоссо	Yes
1°5 hibox		7) 7/1/2016 3:40:44 PM(UFC-	Unread	Where is Rocco	Yes
116 Inbox		7) 7/1/2016 3:38:52 PM(UTC-	Unread	If you're not busy, maybe stop at Tocco and get mom's hair color done?	Yes
1:7 Inisox		7) 7/1/2016 3:37:26 PM(UTC-	(Dhread	She said yeu.	Yes
1.8 inbox		7) 7/1/2016 3:36:54 PM(UTC-	Unread	Will she be able to waik in Europe	Yes
1.0 Inbox		7) 7/1/2016 3:36:38 PM(UTC-	Unread	3 weeks	Yes
120 Inbox		7) 7/1/2016 3:36:27 PM(UTC	Read	Sigh, For how long?	Yes
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123	3303 Allen Johnson	7) 6/30/2016 2:06:51 PM(UTC-	Unknown		1
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150	Alex Gray	7) 6/11/2016 10:47:41 AM(UTO)	Unknewa	· · · · · · · · · · · · · · · · · · ·
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153	Flyun	6/07/2016 7:00:(13.PM(LFC- 7)		
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156	5102 John Camplin	7) 5/30/2016 9:54:06 AM(JFC	Qukirwa)	dian dia manda panganak
157	John Gamptan	5/27/2018 4:19:49 PM(UTC=	Unknown	······································
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159	John cook. 7/:001	5/17/2016	(Unknown)	
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Exhibit B, Page 49

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EXHIBIT

Atkinson-Baker Court Reporters www.depo.com

2	UNITED STATES DISTRICT COURT
2	CENTRAL DISTRICT OF CALIFORNIA
- 3	
	WESTERN DIVISION
4	
5	CORY SFENCER, AN INDIVIDUAL; DIANA MILENA REED, AN INDIVIDUAL: AND COASTAL
:6	, , , , , , , , , , , , , , , , , , , ,
7	PROTECTION RANGERS, INC., A CALIFORNIA NON-PROFIT PUBLIC) BENEFIT CORPORATION,
3	Plaintiffs,
9	No.: 2:16-cv-02129-SJO vs. (RAOX)
10	THURDE BEY BOYS: THE INDIVIDUAL
11	MEMBERS OF THE LUNAL THOULDING BUT NOT L.
12	SANG LEE, ERANT BIAL JOHNSTON AKA JALIAN
13	MICHAEL RAE PAPAYAN FERRARA, FRANK FERR
14	CHARLTE FERRARA, ET
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21	Atkingon-Daker, Inc.
2,2.	Court Reporters www.depo.com
23	(8.00) 288-337 <i>C</i>
24	REPORTED BY: ANGELIQUE MELODY FERRID, CSR NO. 6979
25	FILE NO: ABUSALO
20	FILD PO. RECORTS

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Atkinson-Baker Court Reporters www.depo.com

1	with your attorney about because that's between you	J\$: 13: 3\$
2	and your attorney	69:23:41
3	A. Yeah,	09:13 ⁵ :43
4	Q but did you review any documents?	09:23:43
5	A. No.	09:13:45
6	Q. Okay. And when you say that you met with	09:13:46
7	your attorney yesterday, who did you meet with?	09:13:50
3.	A. With Dan, Ed, and Terra, but she's not here.	DF:13:53
	Q. And have you ever spoken with any of the	09:14:50
ÿ	other Defendants about this lawsuit?	\$9:14:04
10		09/14:07
11	A. No. Q. And have you ever spoken to anyone who surfs	09:14:09
7 0		09:14:27
13	in Palos Verdes Estates about the lawsuit?	U9:14:20
1.4	A. No.	09114720
.15	Q. Let me broaden that out a little bit.	naileime
16	Have you ever communicated with any of the	09:14:23
17	Defendants about this lawsuit?	09:14:35
1.8	A. What do you mean like communicated. I never	09:14:27
19	talked about the lawsuit, yeah.	09:14:31
20	Q. Did you ever communicate in writing in an	09:14:33
21	E-Mail, in a letter, in a text?	99:14:39
22	A. No.	09:14:42
2:5	Q. Okay.	09:14:43
24	A. I mean, people come up and say how you doing.	09:14:46
25	And I say, uh-huh, but that's it, but I don't talk	09:14:50
		and the second s

16

Sang Lee May 31, 2017

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1	BY MS. POOLEY:	09:20:23
2	Q. That's fine.	(9:20:24
3	When did you retain your lawyer?	09:25:26
4	A. I don't even know; It was probably within a	79;20:20
5	month after I got served.	09:20:35
Ov	Q. So, and is that then, within a month of when	09:20:37
7	you got served, when you came to the understanding	09:20:42
8	that you had an obligation to preserve evidence	08:20:48
9	related to this matter?	-0 ;;: 00:≒3
10	A. What was it?	03:20:ÉI
11	Q. Was it within a month of when you got served	09:20:52
12	that you first came to an understanding that you	0,9 026 28.5
<u>1</u> 3	needed to preserve evidence related to this macter?	00:20:50
1.4	A. I don't know if it was a month. It was just	09430:01
15	after when I met with my lawyers they told me so.	79:31:04
16	Q. Again, I'm not interested in communications	09:21:09
17	between you and your lawyer.	09:21/21
1/0.	A. But I don't know the time exactly, so, that's	7/9;[1:13
19	why I'm tolling you.	V d* 55 + 1 %.
20	Q. Okay. After you became aware that you had an	09:21:17
21	obligation to preserve evidence related to this case;	54957974
22	did you take any steps to preserve evidence?	99:21:26
23	A. Did I take any steps?	05:21:32
24	Q. Yes. Did you do anything to make sure that	09:22;34
25	any evidence that you had wasn't lost or destroyed?	69:21:39
-		

2.2

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[1	A. I just didn't erase it. It's all there, so.	09451:48
(2)	Q. When you say it's all there; where do you	09:21:46
3	mean?	09;21:83
4	A. It's in my E-Mail and my phones. I never	09:11:51
5	tried to, you know.	00:21:55
€	Q. Okay. And so do you have the same phone that	09:21:57
7	you had when you first got served?	09:65:65
8	A. Yes.	09:22:05
0)	Q. Did you ever do anything to download or image	.9:22:06
	the E-Mails that had on your phone related to this	09:22:24
10		09:22:21
11	case? MR. CROWLEY: Objection, that it's vague and	99:22:27
12		(9:22:28)
13	ambiguous. You can answer to the extent that you	
14	know.	09:22:31
15	THE WITNESS: Well, no, I don't believe so.	09:22:31
1€	no.	09:22:33
17	BY MS. POOLEY:	09:32:33
1,8	Q. You did not?	05:22:34
19	A. Download any E-Mails?	dr.: cz : 64
20	Q. Did you do anything to download or image any	09122137
.21	E-Mails or other information on your phone that might	09:02:44
22	be related to this case?	09:23:47
23	MR. CROWLEY: Are you asking did he	.09:22:48
24	personally because that's the issue that I think is	09:23:50
25	vague and ambiguous about the question.	19:22:52

2.3